IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION Nos. 6091, 6092 & 6093 of 1997

with

CIVIL APPLICATION Nos. 10329, 10331 & 10332 of 1997

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GOVINDBHAI BHAGWANBHAI PATEL

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 6091 of 1997

MR YN OZA for Petitioner No. 1

MR TUSHAR MEHTA for Respondent No. 1,4

GOVERNMENT PLEADER for Respondent No. 1,2

NOTICE SERVED BY DS for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 08/04/2004

COMMON ORAL JUDGEMENT

All these three petitions are preferred by the members of Mansa Nagar Palika. Earlier, the petitioners have challenged the vires of Section 37 of the Gujarat Panchayats Act, but the same was held to be in-vires by order of this Court dated 27th August 1997 and an order was passed to place these matters before the learned Single Judge. The learned Single Judge by order dated 5th September 1997 admitted the petitions and in view of the judgment in the case of Chimanbhai R. Patel v. Anand Municipality and ors., reported in 1983(1) GLR 67 granted stay against removal as Councillor, but the petitioners were not allowed to continue as Chairman and the President as the case may be.

2. Learned Advocate Mr.Mehta for respondent No.4 has relied upon the Full Bench decision in the case of Mushtaq Ahmed Hasanbhai Mansuri v. V.C.Trivedi, reported in 2003 (1) GLH 572 wherein the view taken by the Division Bench which has been relied upon by the learned Single Judge in the case of Chimanbhai R. Patel (supra) is reversed.

3. In the present case, I am of the view that since the term of the Municipality is over and pending these petitions, the petitioners were allowed to continue as Councillors, there is no need to go into the merits of the matter. However, it is observed that this order may not be used against the petitioners as a stigma in any other proceedings.

4. With the above observations, these three petitions are disposed of. Rule is discharged. No order as to costs.

5. In view of the order passed in the main petitions, no orders are required to be passed in the Civil Applications and the Civil Applications are disposed of accordingly.

(K.S. Jhaveri, J.)

Sreeram.